

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

PHILIPPE PADIEU, #1579307,

Plaintiff,

v.

LISA PHILIPS, et al.,

Defendants.

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Case No. 6:20-cv-631-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Philippe Padieu, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On July 21, 2022, Judge Mitchell issued a Report recommending that the Court grant Defendants Bobby Lumpkin and Kirt Stiefer's motion to dismiss (Docket No. 35), grant Defendants Jacinta Assava, Catherine Chastain, Cheryl Egan, Chantelle Green, Lisa Philips, and Michael Sizemore's motion for summary judgment (Docket No. 41), and deny Plaintiff's motion to dismiss Defendants' summary judgment motion (Docket No. 44). Docket No. 54. A copy of this Report was sent to Plaintiff, and records indicate that he received it by August 1, 2022. Docket No. 57. However, no objections have been received and Plaintiff has not communicated with the Court since December 2021.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 54) as the findings of this Court.

The Court therefore **GRANTS** Defendants Bobby Lumpkin and Kirt Stiefer’s motion to dismiss (Docket No. 35) and **DISMISSES** all claims against them without prejudice. Further, the Court **GRANTS** Defendants Jacinta Assava, Catherine Chastain, Cheryl Egan, Chantelle Green, Lisa Philips, and Michael Sizemore’s motion for summary judgment (Docket No. 41) and **DISMISSES** Plaintiff’s claim

concerning the alleged danger of Tenofovir DF 300 without prejudice for failure to exhaust administrative remedies. Finally, the Court **DENIES** Plaintiff's motion to dismiss Defendants' motion for summary judgment (Docket No. 44).

So **ORDERED** and **SIGNED** this **30th** day of **August, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE